

It is the Department's opinion that the provisions of 65 ILCS 5/7-4-2 do not apply to distribution of State and local sales tax revenue to local jurisdictions. (This is a GIL).

October 31, 2002

Dear Xxxxx:

This letter is in response to your letter dated August 2, 2002. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120 subsections (b) and (c), which can be found at <http://www.revenue.state.il.us/Laws/regs/part1200/>.

In your letter, you have stated and made inquiry as follows:

The CITY owns and operates CITY Airport. The airport is a facility located outside of the corporate limits of the City. It is located partially in unincorporated AAA County and partially within the CITYA. Certain commercial activities take place at the airport that generate sales taxes. All of these activities occur in that portion of the airport located within unincorporated AAA County.

Pursuant to state law and local ordinance, the CITY has enacted a 1% home-rule sales tax.

Recently, the City's airport director brought to my attention the provisions of 65 ILCS 5/7-4-2. A copy of that provision of state law is enclosed. Based upon 65 ILCS 5/7-4-2, the airport director believes that the CITY is entitled to 1% of the state-shared portion of state sales taxes and a 1% home-rule sales tax on sales that occur at the airport. Do you concur with this view? I have discussed this matter with PERSON. She suggested that I obtain your opinion.

A brief, written response to this letter would be greatly appreciated. If you need further information to enable you to formulate an opinion, please contact me at the telephone number shown above.

It is the Department's opinion that the provisions of 65 ILCS 5/7-4-2 do not apply to distribution of State sales tax revenue to local jurisdictions. This is because the State sales tax operates pursuant to statute, not ordinance. Since there are no ordinances involved in the State sales tax scheme, the provisions of 65 ILCS 5/7-4-2 would not apply.

Unlike the State sales tax, the locally imposed home rule sales tax operates pursuant to statutorily authorized ordinances. This tax is imposed upon persons engaged in the business of selling tangible personal property at retail in the municipality. Allowing the CITY's home rule sales tax to be imposed in areas of the county that are owned by the City but not annexed to the City interferes with the provisions of the tax. Imposition of the tax in such areas of the county also interferes with the rights of the county to impose taxes within its jurisdiction. It is the Department's opinion that this conflict prevents the application of 65 ILCS 5/7-4-2 in such situations.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at [www.revenue.state.il.us](http://www.revenue.state.il.us). If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b).

Very truly yours,

Martha P. Mote  
Associate Counsel

MPM:msk